

48A C.J.S. Judges § 33

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

II. Selection, Eligibility, and Qualification

A. Selection

2. Manner or Method of Selection

b. Appointment

(2) Nominating Commissions

§ 33. Rejection of list

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West's Key Number Digest

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A governor may lack the authority under a state's constitution to reject the commission's certified list and request that a new list be certified although there is contrary authority.

A governor may lack the authority under a state's constitution to reject a judicial nominating commission's certified list and request that a new list be certified.¹ Other authority recognizes a governor's authority to request a commission, after submitting an initial list of recommended nominees, to submit a list of additional nominees,² at least where the request is not an executive directive or order.³ Thus, a governor's request for a new panel of nominees that includes qualified minority candidates does not encroach on the commission's powers.⁴

Withdrawal or death of nominee.

A nominee's withdrawal from consideration for an appointment to fill a judicial vacancy does invalidate the panel of nominees certified by the nominating commission.⁵ Similarly, where a governor's nominee is not appointed due to the death or disability of the nominee, the judicial nominating commission is generally not required to submit a new list of nominees to the governor.⁶ Where a statute requires the commission to certify names of three nominees to the governor, once the commission certified the required number of names to the governor, its role in the selection and appointment process is complete.⁷

CUMULATIVE SUPPLEMENT

Cases:

Neither Governor nor her appointee to fill vacancy on Court of Appeals possessed statutory authority to withdraw the appointment once made, and thus Governor's new appointment after original appointee's purported withdrawal was ineffective, and second appointment was treated as a matter of law as if it never happened. [Kan. Stat. Ann. § 20-3020\(b\)](#). [State ex rel. Schmidt v. Kelly](#), 441 P.3d 67 (Kan. 2019).

[END OF SUPPLEMENT]

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Footnotes

- 1 [Fla.—Pleus v. Crist](#), 14 So. 3d 941 (Fla. 2009).
- 2 [N.M.—State of N.M. ex rel. Richardson v. 5th Judicial Nominating Commission](#), 2007-NMSC-023, 141 N.M. 657, 160 P.3d 566 (2007).
- 3 [Tenn.—Bredesen v. Tennessee Judicial Selection Com'n](#), 214 S.W.3d 419 (Tenn. 2007).
- 4 [Tenn.—Bredesen v. Tennessee Judicial Selection Com'n](#), 214 S.W.3d 419 (Tenn. 2007).
- 5 [Tenn.—Bredesen v. Tennessee Judicial Selection Com'n](#), 214 S.W.3d 419 (Tenn. 2007).
- 6 [R.I.—In re Advisory to the Governor \(Judicial Nominating Com'n\)](#), 668 A.2d 1246 (R.I. 1996).
- 7 [Tenn.—Bredesen v. Tennessee Judicial Selection Com'n](#), 214 S.W.3d 419 (Tenn. 2007).